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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,172	05/28/2002	Jasmin Weinert	1124515	9729

7590 11/16/2005
Oliff & Berridge
PO Box 19928
Alexandria, VA 22320

EXAMINER

VARGOT, MATHIEU D

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,172

Applicant(s)

WEINERT, JASMIN

Examiner

Mathieu D. Vargot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Upon reconsideration, the restriction requirement has been vacated and an action hereby follows on claims 1-14 and 16.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-8, 11-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kittler, Jr in view of Japanese document 60-155,609.

Kittler, Jr discloses the basic claimed method and apparatus for forming plane-parallel platelets including steps and means for coating a partial surface of a rotatable drum with a separating agent and at least one product layer, with the drum being disposed in a vacuum chamber, transporting the partial surface by rotation of the drum and stripping the product layer from the partial surface to produce the plane-parallel platelets, the steps being performed continuously and concurrently on different partial surfaces as set forth in instant claim 1. Essentially, Kittler, Jr fails to disclose that the drum is rotatable about an axis which is normal to the partial surface on which the coating occurs.

However, Japanese -609 discloses a metallic powder producing method in a vacuum chamber in which a CO₂ separating agent and a metal layer are deposited on partial surfaces A and B of a disk carrier rotatable about an axis that is normal to the partial surfaces and stripping the product layer at partial surface C. Clearly, it is known in this art to deposit release layers and product layers on a disk carrier which is oriented in the instant manner. It would have been obvious to one of ordinary skill in the art to modify

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the method and apparatus of Kittler, Jr by changing the orientation of the carrier as taught in Japanese –609 as either would clearly be a mechanical equivalent. Kittler, Jr teaches depositing product layers on opposite sides of the drum carrier. It is submitted that employing multiple disks wherein some would be open in lieu of a single disk would have been obvious in the combination as applied as such merely constitutes providing a multiplicity of parts that would have otherwise functioned as a single unit—ie, the division of the disk in Japanese –609 into multiple disks would have been obvious.

3. Claims 2, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kittler, Jr in view of Japanese document 60-155,609 and PCT Publication WO 00/18978.

Kittler, Jr and Japanese –609 are applied for reasons of record, the references essentially lacking a disclosure of using an inorganic separating agent which is dissolved. PCT –978 teaches this and such would have been an obvious modification over the wax/organic release agent of Kittler, Jr to facilitate the removal thereof. Note that organic and inorganic release agents are both well known in this art and that one of ordinary skill would have been expected to know this and use whichever release agent deemed most suitable.

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

In view of the amendment, new grounds of rejection has been applied which renders applicant's comments directed to PCT –978 as the primary reference now moot.

Needless to say, Kittler, Jr in combination with Japanese –609 teaches the basic

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claimed method and apparatus, with Japanese –609 teaching what applicant noted was lacking in Kittler, Jr and/or PCT -978, namely the provision of a rigid carrier which is rotated about an axis normal to the partial surface on which material is deposited and later stripped off. Contrary to applicant's comments, it is submitted that Kittler, Jr does indeed teach stripping the product layer under vacuum—ie, the stripping of the product layer from the partial surface of the rigid carrier does indeed occur within the vacuum chamber.

5.Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


6.Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on 571 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
November 12, 2005


Mathieu D. Vargot
Primary Examiner
Art Unit 1732

